

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 18 – SUBREGION 30**

STARBUCKS CORPORATION

Employer

and

**CHICAGO & MIDWEST REGIONAL JOINT
BOARD, WORKERS UNITED/SEIU**

Petitioner

Case 18-RC-293286

DECISION AND DIRECTION OF ELECTION

On March 30, 2022, Chicago & Midwest Regional Joint Board, Workers United/SEIU (“Petitioner”) filed a petition to represent approximately 26 full-time and regular part-time baristas and shift supervisors employed by Starbucks Corporation (“the Employer”), at a facility at 1 E. Main Street in Madison, Wisconsin, also known as Store 2425 (“the petitioned-for store”).¹ The Employer opposes the scope of this unit, contending that the only appropriate unit would include the petitioned-for store plus twelve others that make up “District 326” (one part of the Employer’s organizational structure), and would cover approximately 446 employees.² A videoconference hearing on this petition was held on April 21, 2022, before a hearing officer of the National Labor Relations Board “Board”). At the hearing, the hearing officer received a stipulation from the parties to incorporate into the record certain record evidence introduced in other Board hearings on separate petitions filed by Petitioner involving the same Employer.³ Both parties filed post-hearing briefs.

¹ The petition does not expressly seek to include assistant store managers in the unit. However, the parties stipulated that there is currently one assistant store manager at the petitioned-for store, four total in District 326, and that the relevant assistant store manager(s) should be allowed to vote subject to challenge if an election were directed. The assistant store manager at the petitioned-for store is Chris McQuellen.

² District 326 encompasses the following 13 stores, all in Wisconsin: 1) Store 2309 - 661 State St., Madison; 2) Store 2425 - 1 E. Main St., Madison; 3) Store 2511 - 2981 Triverton Pike Dr., Fitchburg; 4) Store 2655 - 6512 Monona Dr., Monona; 5) Store 8141 - 2980 Deerfield Dr., Janesville; 6) Store 13393 - 2791 Milwaukee Rd., Beloit; 7) Store 16518 - 4202 E. Washington Ave., Madison; 8) Store 19808 - 2804 Prairie Lakes Dr., Sun Prairie; 9) Store 53611 - 485 Wright Rd., Johnson Creek; 10) Store 62417 - 1605 Greenway Cross, Madison; 11) Store 64906 - 2157 Rimrock Rd., Madison; 12) Store 64933 - 2503 S. Stoughton Rd., Madison; and 13) Store 65420 - 1720 US Hwy 51, Stoughton.

³ The parties stipulated that certain testimony and exhibits from the following cases were incorporated by reference: 03-RC-282115, 03-RC-282127, and 03-RC-282139 (collectively, *Buffalo I*); 28-RC-286556 (“*Mesa I*”); 10-RC-288098 (“*Knoxville*”); 28-RC-289033 (“*Mesa II*”); 19-RC-287954 (“*Seattle I*”); 27-RC-288318 (“*Superior*”); and 08-RC-288697 (“*Cleveland*”). Moreover, the parties stipulated that baristas and shift supervisors at the petitioned-for store have similar skills and functions as the baristas and shift supervisors the stores in the following cases, and that the petitioned-for store conducts substantially the same business as those stores: *Buffalo I*, *Mesa I*, *Mesa II*, and Cases 03-RC-285929, 03-RC-285986, and 03-RC-285989 (collectively, *Buffalo II*).

As explained below, based on the record, briefs, and relevant Board law, I find that the petitioned-for unit is appropriate. Accordingly, I am directing a mail-ballot election for the petitioned-for store.

I. FACTS

The Employer operates approximately 9,000 stores in the United States, serving food and a wide variety of beverages, including made-to-order coffee drinks. Multiple stores are organized into a “district,” reporting to a district manager. Multiple districts are organized into an “area,” reporting to a regional director. And multiple areas are organized into a “region,” reporting to a regional vice president. At the corporate level, (often centering on the Employer’s headquarters in Seattle, but for the purposes of this Decision, including everything above the district level) the Employer has several specialized departments and teams, and it has developed many resources and protocols for its stores nationwide. Per the normal chain of command, store managers in District 326—including Jess Nawrot, the store manager at the petitioned-for store—report to district manager Lisa Greco, who in turn reports to regional director John Antonelli. The Union’s sole witness is a shift supervisor who has been employed at the petitioned-for store for three years. This shift supervisor started as a barista and has been a shift supervisor for one year. This shift supervisor works about 26 hours a week, from just before noon or early afternoon until closing.

The 13 stores encompassed by District 326 are all in Wisconsin. The petitioned-for store is in downtown Madison, so its business is responsive to special events in the city, such as farmers markets. Because Madison is a college town, the petitioned-for store’s business is affected by the ebb and flow of students when school is on break or in session, and by graduation events. Also, many of the Employer’s employees in the Madison area are students. There are approximately 18 baristas and 8 shift supervisors at the petitioned-for store. Its operating hours are 5:30 a.m. until 7:00 p.m. Works schedules at that location start and end one half hour before and after operating hours to accommodate opening and closing procedures.

A. Daily Operations

The petitioned-for store, like other Employer stores, is primarily staffed by baristas and shift supervisors. Baristas report to shift supervisors, and both report to the store manager of their respective “home store” or primary place of employment. The store manager in turn reports to the district manager. The Employer’s Partner Guide for U.S. stores states that “[t]he store manager is ultimately in charge of all store operations and directs the work of the . . . shift supervisors and baristas,” and also “is responsible for personnel decisions, scheduling, payroll and fiscal decisions.” From the perspective of the testifying shift supervisor, the store manager’s responsibilities also include managing time-off requests, ordering inventory, hiring, disciplining, or firing employees, and sometimes running shifts herself. And he describes his shift supervisor responsibilities as ensuring that the floor is running efficiently, that breaks are being taken and on time, that the store has the materials it needs, handling cash, and being the “keyholder,” or the employee who holds the physical keys to the store when the store manager is absent. Baristas greet customers, take orders, prepare food and drinks, and operate the registers. Some baristas, in addition to performing the above-mentioned tasks, are designated as “barista-trainers,” as they provide training to their fellow baristas.

District manager Greco has been in her current position for nine-and-a-half years and describes her job as “inspir[ing] the Starbucks experience for my portfolio . . . includ[ing] my partners and business and the customers.” She is accountable for various aspects of the District 326 stores, including customer experience (measured by metrics of cleanliness, the taste of the beverages, and speed of service); employee experience (as revealed by district-survey data); sales; controllable costs; and profits and losses. Greco also decides on the initial layout of stores in her district and will adjust and remodel them to fit with the Employer’s business needs.

Greco testified that she typically spends 40 to 70% of her time in the stores in District 326; 40% recently because of the COVID-19 pandemic. She uses this time in her stores “to coach, observe, guide, [and] inspire” employees. Greco reports that she communicates with District 326 stores and store managers “several to many times a week” by telephone, email, and in direct and virtual meetings, including a weekly district-wide virtual meeting. More precisely, Greco testified that in 2021 she visited the petitioned-for store once every 7 to 10 business days. These visits can go from 20 minutes up to 3 hours, but they typically take an hour to an hour and a half. Monthly meetings are typically 3 hours, weekly meetings are shorter, but period-planning meetings—which are held 7 times a year to go over the Employer’s changing promotional offerings—can go “much longer” than 3 hours.

The weekly meetings are to provide updates and to engage in team building, through sharing store experiences and acknowledging each other’s good work. In terms of updates, these would include discussing anything from changes in Employer policy, to informal events such as sales, customer connections, birthdays, and anniversaries. In general, Greco says she determines the rhythm, frequency, duration, and agenda of her meetings with store managers, including if store managers present and on what topics. At period-planning meetings, Greco and the store managers discuss the new drink options for that time of year, and the particular challenges a store might then face, such as an increased need for cold or hot cups, and changes in business volume because of different local events. Period-planning visits are sometimes followed by observe-and-coach visits, to see how well the period plan was executed. Greco states that store managers are expected to review their “store plans”—the priorities of their stores during a specific time period—with her. Baristas and shift supervisors do not normally participate in weekly, monthly, or period-planning meetings.⁴

Greco testified that on “nearly all, if not all, store visits,” she observes and coaches baristas, for example, on “[c]ustomer service, beverage quality, cleanliness, dress code, [and] other policies.” She might ask them how they are doing, if there is anything she can help with, or other questions based on what she is observing at that moment. Greco provided examples of coaching baristas and shift supervisor during visits to the petitioned-for store and other stores in District 326. The day before she testified, Greco helped employees with a broken labeler and with rerouting work at the store caused by that equipment failure. The morning of her testimony, she was contacted about an incident report and 911 call at the petitioned-for store. Greco also states that she often holds meetings with hourly employees, sometimes an informal “roundtable discussion” on a quarterly basis, the times for which can be seen in the Employer’s Outlook calendar. These roundtables are exclusively for hourly employees, not for store managers or assistant store managers.

⁴ It is unclear if or how baristas and store supervisors are involved with observe-and-coach visits.

The shift supervisor testified that he had only seen Greco in the petitioned-for store twice in the past twelve months, that she has never been in the store for more than 15-20 minutes, and that he has never had a conversation with her beyond exchanging pleasantries or ringing up her drink orders. The shift supervisor has observed the store manager coach employees on how to perform their job tasks, but he has never seen the district manager provide any coaching. And the only regular meetings that the shift supervisor reports participating in are shift meetings with his store manager and assistant store manager.

Greco testified that she may get involved if there is a payroll issue, providing an example of where she helped an employee get emergency pay when he reached out to her after he did not get his paycheck. She also testified that there were several instances when an employee at the petitioned-for store reached out to her for help over their payroll concerns, in one instance, “work[ing] directly with a partner to resolve their concern and loop[ing] in the store manager.” Greco continued that employees at the petitioned-for store often bring their concerns to her directly: in the past year, for example, regarding a store-remodeling plan, an incident-report at the store, and “[c]oncerns around pay, their store manager, concerns about activity on the square, especially over the last couple of years.”

The shift supervisor testified that if he had any problem with the Employer’s policies, procedures, or with someone at his store, then he would speak with his store manager or assistant store manager. The shift supervisor has had many incidents involving customers who needed to be banned or removed from the store, but he has never spoken with the district manager about them. He also provided an example of when he recently reported a barista to his store manager for not doing his or her job and resisting the shift supervisor’s coaching. The store manager talked to the barista and reported this back to the shift supervisor. The shift supervisor is not aware whether his store manager or assistant store manager consulted with the district manager over this matter.

The permanent store hours and staffing numbers at the petitioned-for store are based on forecasts generated by a corporate-level Partner-Planning tool, which ensures that store managers have appropriate staffing levels to meet the Employer’s anticipated business needs. Greco does not create and cannot change the forecast; however, she is in a position to see if a particular store deviates from the forecasted hours and staffing numbers. If a store has more employees, used more labor hours, or is open more or fewer hours than the forecast says it should, then Greco would look into this and have a conversation with that store’s manager. Greco explained that only she, not the store manager, has access to this application and can change the store’s permanent hours to deviate *from* the forecast. While a store manager could discuss changing store hours with Greco, if a store manager changed the hours without her permission, then she would impose “a version of disciplinary action.” The same holds true of staffing levels: only Greco can add more staff. Finally, only Greco, not store managers, can change *temporary* store hours.

The petitioned-for store offers mobile ordering and deliveries through applications like Uber Eats. But these services may be turned off when the store is overworked and understaffed. According to the shift supervisor, the only person in the store who can turn off mobile ordering is the store manager; however, the district manager must approve this decision at some point, even if the store manager does not ask for permission in advance. Moreover, the shift supervisor

explained that either the store manager or the shift supervisor—whoever is running the shift—can decide to turn off deliveries. This can occur because the petitioned-for store is being overwhelmed, or because the store has run out of the appropriate bags to send out the delivery orders. Regarding supplies, the shift supervisor reports that normally, when the petitioned-for store was running low on supplies, it was because of supply-chain problems, and hence no other stores would have supplies either. However, sometimes the petitioned-for store would request supplies for other District 326 stores, or “[a]ny store that we could reasonably get to.” Greco testified that she helps coordinate the movement of supplies between stores, using the Employer’s “Inventory Management System” (“IMS”) application, which allows her to see the inventory of each store. Greco testified this sharing is necessary to her stores’ operations and occurs frequently.

The optimal assignment of work tasks and arrangement of employees at different locations within a store is modelled by the Employer’s nationwide “Play Builder” tool. These “plays” are not created by the store manager but rather “are based on the store layout, [and] historical data of sales in the store.” Greco expects store managers to use Play Builder. If not, then she would have a coaching conversation with them, “would share with them the benefits [of using the tool],” and “if it was a trend [not to use Play Builder], then there would be accountability.” While Greco does not have a direct way of knowing whether a store manager uses Play Builder, she claims that not using it would affect the speed of service and customer experience, so she would become aware of this in the long term. And she would have an idea about whether Play Builder was being used based on her conversations with store managers, hourly employees, and by looking at customer metrics. By contrast, the shift supervisor testified that no one at the petitioned-for store uses Play Builder. While his former store manager Mindy Royce—who immediately preceded Nawrot in that position—did tell him to use Play Builder, Nawrot has never told him to use it, nor does Nawrot herself use it, and the shift supervisor knows of no one else who does. Rather, work assignments are decided by whoever is running the shift, usually one of the shift supervisors. Those decisions are based on considerations of who is working that day, their personal strengths and weaknesses, and where employees *want* to be deployed. Moreover, employees are moved around a lot over the course of a shift to complete certain tasks, accommodate breaks, or help employees avoid getting burned out.

In addition to Play Builder, the Employer maintains numerous other corporate handbooks and guidelines that govern day-to-day operations at its stores nationwide. These include a “Partner Guide” and an “Operations Manual” covering terms and conditions of employment and daily practices; an “Operation Excellence Field Guide,” which identifies the roles and responsibilities of the various employees in the Employer’s stores. The Employer also utilizes corporate product-management programs, such as IMS and “Par Builder,” to handle most ordering and deliveries. Equipment and repairs are likewise handled at the corporate level. The Employer’s corporate “Siren’s Eye” program dictates seasonal layouts and offerings at each store. When something serious goes wrong at the petitioned-for store, such as a major equipment failure, this is handled at the corporate level, by a facility contact center. The testifying shift supervisor once made use of the Employer’s centralized Partner Resource Center to report when he had fallen on the job during a remodeling, and he did not need the store manager’s approval to do so. The shift supervisor is also aware of the Employer’s Ethics Hotline and is aware that he would not need the store manager’s approval to use that resource either. Additionally, Greco states there is an “800” number for customers to lodge complaints against stores, and if they do, Greco reviews them and follows up with the customers and the stores. Overall, it is undisputed

that many aspects of the petitioned-for store's daily operations are controlled at the corporate level, and the Employer's stores are designed to provide a consistent customer experience across locations, with standardized menus, promotions, and store design.

Other aspects of the petitioned-for store's operations are discussed in more detail below.

1. *Hiring*

The U.S. edition of the Employer's "Partner Guide," states that "[t]he responsibility of hiring store partners belongs to each Starbucks store manager depending on the store's particular business needs." There is no dispute that applicants apply for work through the Employer's corporate-level application-and-hiring system, "Taleo." Store managers then search this application database, reach out to applicants, set up and conduct interviews, and ultimately make a hiring decision. The interviews are guided by standard, company-wide interview questions. The only condition on the store manager's hiring offer is that applicants must pass their background checks. Greco recalled one instance when she told a store manager that he or she could not hire an employee, because the applicant had worked for the Employer before and was ineligible to be rehired. But Greco rarely prohibits a barista hire, and "as long as they need a barista" and the background checks clear, store managers are free to hire them without Greco's involvement.

Greco does expect store managers to consult with her about a store's overall hiring needs, and to consult with her in advance before deciding to interview or hire a barista, working from projected store needs over 30, 60, and 90-day periods. These conversations are based on the staffing needs forecasted by the previously discussed Partner-Planning tool. So, the district manager plays an important role in determining *whether* to hire employees in the aggregate, but the store manager decides *who* to hire in particular.

From the testifying shift supervisor's perspective, there was no one else involved in his being hired other than the store manager. He has also visually observed job interviews at his store and testified that only the store manager or assistant store manager has ever conducted them. However, he has never overheard the questions asked during these interviews, as they occur in a noisy, café setting.

2. *Training*

The store manager is responsible for scheduling and conducting new-employee orientation and overseeing new-employee training for baristas. Upon being hired, new employees complete brief, company-wide, online training modules. The store manager then assigns a "barista trainer" to a trainee and schedules the training. However, the training is based on a nationwide plan, which neither the store manager nor the district manager has any role in designing. The shift supervisor testified that he has tailored this plan to fit the trainee—for example, if the trainee already has experience making coffee drinks—and his store manager has never prohibited him from doing so.

While the store manager oversees the training and ensures that it has been conducted properly, the district manager can review and verify training plans as part of her planning-period

visits. Moreover, Greco stated that because she looks at the store schedules every week she can see the training schedule as well, and she can see the training plans as part of a check list.

3. *Scheduling*

It is undisputed that store managers are responsible for the weekly scheduling of employees, and they create these schedules by means of the Employer's "Team Works" or "Partner Hours" applications.⁵ They are also responsible for approving time-off requests and shift swaps between partners initiated through the third-party "GroupMe" application and/or Partner Hours, as employees "in the same market and same role" can swap shifts among themselves if coverage is needed. The shift supervisor testified that employees can see that the store manager is responsible for making such approvals via the Partner-Hours portal, which can be accessed through the computer at the petitioned-for store. The district manager does not approve or disapprove such requests.

The shift supervisor has observed the store manager preparing weekly schedules on multiple occasions. These schedules are physically posted on one of the refrigerators in the back room of the petitioned-for store, and they are also posted electronically. Moreover, if an employee has a problem clocking in and out via the Employer's digital system, they can sign in on a physical store-records book, and the store manager will review these records and enter them into the digital system later.

Like all businesses, the petitioned-for store has had to deal with employees calling off work for COVID-related reasons. From the shift supervisor's perspective, the store manager alone managed the scheduling problems caused by COVID-related call outs, allowing employees who needed to quarantine to call out without being disciplined for missing a shift, and soliciting other employees to cover their shifts. The shift supervisor does not know whether the store manager had to consult with the district manager over this matter but surmises that the store manager would have to notify the district manager about positive COVID test results.

Greco testified that she reviews the schedules at District 326 stores, and store managers may contact her if they need support to cover shifts. In particular, Greco says that she plays a role in coordinating between stores to allow employees to work elsewhere when reduced scheduling or home-store closures would otherwise adversely affect an employee.

4. *Promotion and Transfer*

In early 2021, the Employer implemented a nationwide "Career Progression" process through Taleo. This means that baristas can now apply for shift supervisor positions, and shift supervisors can apply to become assistant store managers or store managers, at stores inside or outside their district, without having to appeal directly to their store or district manager.

While store supervisors may promote a barista to barista trainer, they cannot promote shift supervisors or assistant store managers without Greco's involvement. However, the testifying shift supervisor recounts that when he expressed interest in becoming a shift supervisor, it was his store manager who encouraged him to do so, and then helped him become

⁵ Greco called this the "Team Works" application, but she seems to be referring to what is more commonly known as "Partner Hours" or some aspect of it.

a barista trainer, a prerequisite for ultimately becoming a shift supervisor. The district manager was not involved in this process.

Greco states that when employees transfer to another location “[t]he incoming and outgoing district manager” approves these transfer requests. Such transfers can be permanent or temporary, for example if an employee who is also a student moves away from the area for the summer. While uncommon, Greco has denied transfer requests when there are not enough available hours at that store to schedule that employee, or when an employee is not in good standing.

5. Evaluation and Discipline

The Employer uses the same corrective-action form in all its stores nationwide. The form covers discipline from documented coaching, a written warning, and a final written warning. There is no place for the district manager to sign off on that form; rather, there are signature lines for the store manager, the employee, and a witness. However, Greco says that she expects to be consulted by store managers before they administer discipline at any level. As an example, Greco recounted an incident on the morning of the hearing, when she was

talking to a store manager from a certain location who described a situation where a partner was misusing another partner’s pronoun. It was not a one-time thing. It was a trend. We talked about it before, so the course of action they wanted to take I disagreed with. *I asked them to consider the following things*, which I shared with them, and encouraged them to correct a statement and call it into the partner contact center, which is consistent with the virtual coach as well.

Greco also recounted an incident from the weekend preceding the hearing, when

[t]he store manager of the Fitchburg location [Store 2511] had a partner who did not come to work. They were no call/no show. And they wanted it put them on final written warning. They also did not show up the next day. And so putting them on final written warning was not appropriate. They missed three shifts and needed to go on leave of absence. She needed to initiate that because there might be something more serious going on than they just didn’t show up for work. That would be another example of where we [Greco and the store manager] worked together.

In this case, Greco stated it “was my *suggestion* that the store manager *agreed* to initiate,” to put the employee on a leave of absence rather issuing a final written warning. Greco states that partners have come to her directly to dispute a disciplinary action, and then she has worked with Partner Resources to direct them to file a formal dispute.

Greco elaborated on her role in administering discipline in the following exchange:

Q. [T]he store managers can’t issue discipline . . . without your involvement, isn’t that correct?

A. It’s not.

Q. They always have to speak to you first before giving any sort of discipline?

A. I want to be looped in to make sure it’s consistent before they sit down to give a corrective action and I want to have a conversation.

Q. You want to be looped in or they have to loop you in before they issue any sort of discipline?

A. It is my expectation that they do. If they didn't, I would follow up with them. And if it was consistent, there would be disciplinary action[.]

Q. And then how do you find out if they issued discipline without talking to you first?

A. I think that I would eventually—maybe a partner would share that with me or it would come to light.

The shift supervisor testified that he has been disciplined three times over the course of his employment, once about two years ago for being late to work multiple times the same week. All three times he was disciplined, the store manager gave him the corrective-discipline form, and two times the store manager talked with him about the corrective action, while one time the store manager and the assistant store manager both spoke with him. Both he and the store manager ultimately signed his corrective-action forms. The shift supervisor's general sense is that the store manager is solely responsible for deciding whether to issue discipline, but he was never told this by the store manager. Moreover, there are meetings called "one-on-ones" between store managers and other employees that are almost always disciplinary in nature, but which are sometimes used to just check in on an employee's progress. According to the shift supervisor, only the store manager conducts these one-on-ones, and he has never seen the district manager either conduct one or be involved with one.

The Employer provides extensive materials, produced at the corporate level, to guide store managers in issuing discipline. The Employer's "Virtual Coach" tool allows a store manager to select from topics such as "attendance and punctuality," then use a series of drop-down menus to narrow the focus of the problem, ultimately reaching a "result." For example, if the attendance and punctuality topic is selected, then a menu allows the store manager to choose from subtopics such as "no call/no show" or "tardiness." If the tardiness option is selected, the Virtual Coach then asks five questions, including "if the partner arrived late to a scheduled shift, were there any extenuating circumstances?" and "has the partner mentioned an inability to comply with Starbucks Attendance and Punctuality policy due to religious or medical reasons?" If all five questions are answered in the negative, the Virtual Coach produces a result of "Documented Coaching is consistently recommended for a first-time policy violation." However, the Virtual Coach displays the following message to the store manager: "The Partner Relations Virtual Coach is intended to complement, not replace, your active assessment and judgment, and guidance provided by your next-level leader, Partner Resources, Ethics & Compliance, or Legal counsel. Contact your leader or Partner Relations if you have a question about a recommended outcome."

Greco expects store managers to consult the Virtual Coach and sometimes Partner Resources before issuing discipline, and she will check if they have done so. Moreover, Greco stated that it is not appropriate for store managers to investigate allegations of workplace misconduct; rather, they would simply gather statements and then call the incident in to a corporate-level "Partner Contact Center" to determine how to proceed.

B. Employee Skills, Functions, and Working Conditions

The shift supervisor recounted some differences between the petitioned-for store and Store 2309, the “State Street” store in District 326: a different store layout, a different cold-bar layout, and different bar machines. While stores throughout District 326 might have older or newer versions of the same equipment, they are basically the same and serve the same menu. Relatedly, employees’ skills, job functions, and many working conditions are similar at all the Employer’s stores. Standardized equipment and menus make it possible for employees to move from their home store to another location and prepare the Employer’s food and drinks with minimal or no difficulty. In addition to preparing food and drinks, many other job duties, ranging from restocking merchandise to cash handling, are dictated by corporate-level policy and do not vary between stores.

It is undisputed that wages, pay structure, and benefits (such as vacation, paid leave, and health insurance) are determined on a company-wide basis, not by the store manager or district manager.

C. Employee Interchange

As mentioned, while each employee has a home store, it is relatively easy for employees at different stores to trade shifts between themselves via social-media like applications, so long as the relevant home-store manager approves the swap. Greco states that she also talks to store managers about these swaps during their weekly meetings. An employee participating in this type of temporary interchange is referred to as a “borrowed partner.” At the petitioned-for store, this type of exchange is used to cover shifts when any of the core staff—many of whom are students—are away because of school breaks, or for any other reason.

The Employer’s Partner Guide states that “[d]epending on the business needs, a partner may be assigned to work at a Starbucks store other than the normal place of work, and the partner will be expected to do so.” And the Employer’s “Partner Availability Form” for U.S. and Canada, states that an employee “could also be asked to work at another location to meet the needs of the business or to attain your requested hours.” Greco asserts that employees can be assigned to work at a non-home store, they are apprised of this expectation, she has the authority to make such assignments, and employees are not guaranteed a specific number of hours at any particular store. However, Greco did not provide any example of an employee being disciplined for refusing to work as a borrowed partner or otherwise being involuntarily assigned to work as a borrowed partner.

The testifying shift supervisor recounts that he has voluntarily worked as a borrowed partner at Stores 2309, 19808, 2511, and one other unidentified store on the West Side of Madison, perhaps Store 62417. At least three, if not all, of these stores appear to be in District 326, and he worked one shift at each of them. As he understands it, working as a borrowed partner is never mandatory, and he has never been required to do so; rather, if there is an open shift at another store, this has been communicated as a simple, general question, “is anyone willing to take it?” He also stated that his home store has used borrowed partners, but “not recently or with any real frequency.” As he recalls, the last time his home store used a borrowed

partner was in August 2021, “when roughly half of our store either transferred to another city permanently or just left the company,” and the store had to hire extra staff.⁶

The Employer’s evidence shows that not all employees in District 326 work exclusively at their home stores. Between April 29, 2019 and March 20, 2022, 72.8% of employees in District 326 worked exclusively at their home stores,⁷ while 27.2% worked at one or more additional stores. During that same timeframe, 47.8% of employees at the petitioned-for store worked there exclusively, while 52.2% worked at least one shift at another store. The Employer’s analysis shows that all stores in District 326 have had employee interchange throughout that timeframe, with borrowed partners working “1.7[%] of shifts across all days of the week.” Based on the Union’s analysis of the same data focusing on the petitioned-for store, it found that “the total percentage of shifts worked by borrowed partners at the petitioned-for store was 0.72% in 2019, 2.3% in 2020, 1.52% in 2021, and . . . 0.16% so far in 2022.”

D. Distance Between Locations

The record does not contain any discussion of the distances between the District 326 stores. Based on numerous maps submitted into evidence, it appears that there is a cluster of 8 stores within a 5-mile radius centering on the petitioned-for store; then another store (19808) about 9 miles northeast; one store (53611) almost 40 miles due east; and three stores (65420, 8141, and 13393) to the southeast, about 20, 40, and 50 miles out, respectively. The 13 District 326 stores span 8 different localities, but 6 stores are in Madison.

E. Bargaining History

There is no prior history of collective bargaining involving the petitioned-for store or the other stores located in District 326.

II. ANALYSIS

A. Legal Standard

The Board has long held that a petitioned-for single-facility unit is presumptively appropriate unless it has been so effectively merged or is so functionally integrated that it has lost its separate identity. *D&L Transportation, Inc.*, 324 NLRB 160, 160 (1997). The party opposing the single-facility unit bears the heavy burden of rebutting its presumptive appropriateness. *Starbucks Corp.(Mesa I)*, 371 NLRB No. 71, slip op. at 1 (2022) (quoting *California Pacific Medical Center*, 357 NLRB 197, 200 (2011)); *J&L Plate, Inc.*, 310 NLRB 429, 429 (1993); *Renzetti’s Market, Inc.*, 238 NLRB 174, 175 (1978). In order to rebut the

⁶ The cause of this major loss of employees was not explained.

⁷ In its brief, the Employer states that “about 72.8 percent of the partners working in District 326 worked in only a single store (*which may or may not be their home store*) during the data period” (emphasis added). While this distinction may refer to instances when an employee with a home store in *another* district acted as a borrowed partner in District 326 on a temporary or one-time basis, it is unclear how an employee with a home store in District 326 could work at only one store that is not his or her home store. If the Employer’s distinction is meaningful, then it suggests that its interchange analysis is capturing intra- *and* inter-district interchange, and hence employee interchange is not limited by district lines.

presumption, the party challenging it must be able to show that the day-to-day interests of the employees at the single location have merged with those of the employees at the other locations. *Id.* at 175. The Board has found a single unit of multiple jobsites to be appropriate when it has a “distinct” community of interest from excluded facilities sought to be added. *Audio Visual Services Group, LLC*, 370 NLRB No. 39, slip op. at 3 (October 26, 2020) (contrast *Laboratory Corporation of America Holdings*, 341 NLRB 1079, 1082 (2004), wherein the Board found a single petitioned-for unit of seven patient services centers located in southeastern New Jersey was not appropriate and must include 22 other patient services centers in the southern New Jersey region because the petitioned-for employees “as a group [did] not share a community of interest distinct from that shared with [the excluded] employees . . .”).

To determine whether the single-facility presumption has been rebutted, the Board weighs the following factors: (1) central control over daily operations and labor relations, including the extent of local autonomy; (2) similarity of employee skills, functions, and working conditions; (3) the degree of employee interchange; (4) the distance between locations; and (5) bargaining history, if any exists. *Trane*, 339 NLRB 866 (2003); *J&L Plate*, 310 NLRB at 429. The same presumption and factors apply in the retail-chain setting. See, e.g., *Red Lobster*, 300 NLRB 908, 912 (1990); *Foodland of Ravenswood*, 323 NLRB 665, 666 (1997). As in other contexts, there is nothing in the Act requiring that the unit found appropriate be the only appropriate unit, or the ultimate unit, or the most appropriate unit. The Act only requires that the unit be “appropriate.” *Foodland Of Ravenswood*, 323 NLRB at 666 (quoting *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950)). It is not sufficient to merely show other combinations of employees may also constitute an appropriate unit; rather, the issue is whether the employees at each petitioned-for store “alone constitute an appropriate unit.” *Id.*

B. Application

The fundamental issue is whether the Employer has met the “heavy burden” necessary to successfully challenge the presumptively appropriate single-facility unit sought by Petitioner.⁸ I find that it has not. Specifically, the record contains evidence showing that the baristas and shift supervisors at the petitioned-for store perform their day-to-day work under the immediate supervision of a store manager who is centrally involved in hiring, scheduling, and disciplining employees, among other functions, even if the district manager is involved in these functions as well. Further, the evidence shows that temporary interchange in District 326 and at the petitioned-for store is relatively minor in proportion to the total shifts worked at the district and store level. Overall, the majority of the factors considered by the Board in the single-facility-

⁸ In addition to arguing that the five above-mentioned factors weigh in favor of rebutting the presumptive appropriateness of the petitioned-for unit, the Employer argues that certifying a single-facility unit here would violate Section 9(c)(5) of the Act, which provides that when “determining whether a unit is appropriate . . . the extent to which the employees have organized shall not be controlling.” I reject the Employer’s claim that the appropriateness of the petitioned-for units has been determined by Petitioner’s organizing efforts, in violation of Section 9(c)(5) of the Act; rather, the appropriateness of these units has been determined by the application of relevant Board law.

presumption context weigh in Petitioner's favor, and this determination is consistent with all other recent Board decisions involving representation petitions at Employer stores.⁹

1. Control Over Daily Operations and Labor Relations, and Local Autonomy

The Board has made clear that “the existence of even substantial centralized control over some labor relations policies and procedures is not inconsistent with a conclusion that sufficient local autonomy exists to support a single facility presumption.” *California Pacific Medical Center*, 357 NLRB at 199. Thus, “centralization, by itself, is not sufficient to rebut the single-facility presumption where there is significant local autonomy over labor relations. Instead, the Board puts emphasis on whether the employees perform their day-to-day work under the supervision of one who is involved in rating their performance and in affecting their job status and who is personally involved with the daily matters which make up their grievances and routine problems.” *Hilander Foods*, 348 NLRB 1200, 1203 (2006).

The Board recently examined the operational role of the Employer's store managers in *Starbucks Corp. (Mesa I)*, 371 NLRB No. 71. There, the Board specifically addressed the Employer's argument with respect to centralized operations and local autonomy, that “its automated tools and company-wide policies limit store managers' discretion over ‘the daily matters which make up [employees'] grievances and routine problems.’” *Id.* at 2 (citing *Haag Drug*, 169 NLRB 877, 878 (1968)). The Board noted that in that case, petitioner adduced specific evidence that store managers “do, in fact, play a significant role in adjusting schedules, approving time off and overtime, evaluating employees, conducting interviews and hiring employees, and imposing discipline.” *Id.* The Board acknowledged that while the Employer maintains nationwide tools and policies, the store managers “implement these tools and policies at the local level and make adjustments as needed in real time.” *Id.* The Board determined that given the Employer's burden of proof, the Employer needed to “provide more than conclusory evidence to establish that store managers have little discretion in personnel matters, especially where there is specific evidence indicating otherwise.” *Id.*

I note that the kind of evidence the Employer has proffered to show the power of district managers over store managers has been found insufficient to meet the Employer's burden since the earliest of the recent Starbucks representation petitions.¹⁰ In *Buffalo I*, the Employer's senior vice president of U.S. Operations testified that district managers were involved in determining promotions even at very low levels—there even from barista to barista trainer. Its partner-resources manager testified that store managers cannot unilaterally hire employees but must stay within the staffing limits prescribed by the Partner-Planning tool; that store managers cannot deliver *any* discipline, even conversations, without involving the district manager, who was frequently involved in disciplinary investigations. And its regional director testified that the

⁹ Since the issuance of the Board Order in *Buffalo I* in late 2021, the Board has issued numerous Orders consistently denying the Employer's requests to review Regional Directors' decisions to direct elections in single-facility units at the Employer's stores. See, most recently, *Starbucks Corporation*, 19-RC-291410 (unpublished Board Order dated May 4, 2022); *Starbucks Corporation*, 12-RC-288866 (unpublished Board Order dated Apr. 29, 2022); *Starbucks Corporation*, 01-RC-289055 (unpublished Board Order dated Apr. 28, 2022).

¹⁰ The parties stipulated that the evidence from earlier cases discussed in this paragraph was to be incorporated by reference. See note 3, *supra*.

district manager is the one who approves transfers for employees to work at a new home store, and that store managers would likely be disciplined for not using Virtual Coach. In *Mesa I*, the Employer's regional director testified that a district manager would be involved with finding shift coverage in the event of call-offs or other scheduling changes; that store managers would receive coaching from the district manager if they scheduled more employees or hours than the Partner-Planning tool prescribed; that the district manager—not store managers—decided on promoting and hiring shift managers; that district managers have the authority to overrule a store manager's corrective action; and that district managers ultimately approve permanent transfers. The Employer's director of operations services testified that the district manager, not the store manager, has the exclusive authority to change store hours, even the decision to close a store early on a one-time or temporary basis.

The Board and its Regional Directors have considered Employer evidence such as this—as well as countervailing evidence from baristas, shift supervisors, and a former store manager, who disputed the primacy of the Employer's district managers—and have consistently found that the Employer has not met its burden to overcome the presumption that a single-facility unit is appropriate. Here, I also find that this local autonomy factor fails to support the Employer in meeting its burden. As described below, and in the recent *Starbucks* decisions referenced above, the record establishes that the Employer's store managers play a significant and sufficient role in personnel matters regarding the petitioned-for employees.

Regarding hiring, there is no dispute that store managers select applicants, arrange job interviews, and ultimately decide whether to hire an employee. This holds true even if the district manager uses Partner-Planning forecasts to set general staffing levels at District 326 Stores, and she might stop a hire if she discovers that an applicant is ineligible to work for the Employer. While many aspects of the hiring process may be centralized—such as the use of corporate-level materials and software to direct and facilitate the scheduling of interviews—this does not change the fact that the store manager of the applicant's home store is the fundamental decision maker when it comes to hiring. Thus, hiring weighs in favor of finding local autonomy.

Regarding training, the store manager schedules and conducts new-employee orientation, selects the employees that will perform barista training, schedules that training, and oversees it. Moreover, these plans are adjusted in-store, depending upon the pre-existing skills of the trainee. While the Employer determines the core of employee training via the corporate-level materials and tools and the district manager can verify that training has been completed, the store manager is primary responsible for this function. Thus, training weighs in favor of finding local autonomy.

Regarding scheduling, I acknowledge that the district manager has exclusive authority to change permanent and temporary store hours, and she also claims to help coordinate employee interchange between District 326 stores. I also acknowledge that the Employer's corporate-level scheduling tool sets the stores' core hours. But it is undisputed that the store manager is primarily responsible for creating employees' weekly schedules, approving time-off requests, approving shift swaps, and correcting clock punches. And from the testifying shift supervisor's perspective, the store manager performs these tasks independently. Thus, scheduling weighs in favor of finding local autonomy.

Regarding promotion and transfer, while Greco has the exclusive authority to promote shift supervisors and assistant store managers, there is no dispute that the store manager can promote baristas to barista trainers. Moreover, while employees apply for promotions through the Employer's nationwide/online Taleo system and Career Progression process, the testifying shift supervisor recounts that it was his store supervisor who counseled him about his career and helped him get promoted. From his perspective, the district manager played no discernable role in his employee development, whereas he spoke to his store manager often, and the store manager was the one who holds one-on-one talks to evaluate employees' progress. Finally, Petitioner did not appear to challenge Greco's claim that she approves or denies permanent transfer requests, even though she testified that she only rarely denies such requests, either when the employee is not in good standing, or when there are not enough available hours at the destination store to schedule that employee. It appears, then, that the district manager approves or disapproves permanent transfer requests in a ministerial manner, based on whether the Partner-Hours forecast shows shift availability at the new home store, and on whether the employee is ineligible to transfer based on poor performance at his or her current home store. Altogether, I find that promotion and transfer do not weigh heavily for or against finding local autonomy.

Regarding evaluations and disciplinary matters, Greco's and the shift supervisor's testimony mirrors the testimony of district managers, baristas, and shift supervisors in earlier cases here incorporated by reference: that while district managers report frequently to engage with and coach hourly employees, hourly employees report having little or no contact with district managers, and that all coaching and feedback is actually provided by store managers. Moreover, the Employer's standardized corrective-action form underscores the lack of involvement by the district manager in most discipline, as the form itself does not mention the district manager and notes that an employee should raise any disagreement regarding the discipline with the manager delivering the discipline. While Greco insists on being involved in all disciplinary matters, the examples she provided of such involvement show that she "asked [the store manager] to *consider*" certain factors in determining discipline, or that she made a suggestion "that the store manager *agreed* to initiate." And while ambiguous, Greco appeared to deny that store managers cannot issue discipline without her involvement, stating "it's not" correct when asked, "the store managers can't issue discipline . . . without your involvement, isn't that correct?" Altogether, it appears that Greco expects to be "looped in" before store managers issue discipline so that she has an opportunity to exercise some influence over store managers' decision making, not that the store managers are prohibited from making determinations of their own. Indeed, from the testifying shift supervisor's perspective, it has never appeared that the district manager has played a role in disciplining employees.

Finally, it is true that a store manager applies the Employer's rules and guidelines and uses the Employer's Virtual Coach tool in deciding which disciplinary action to take. However, notifications in that very application emphasize that it "is intended to *complement, not replace*, [the store manager's] *active assessment and judgment*" The overall evidence shows that store managers do make active assessments and use their judgement over employee evaluations and disciplinary matters, and this factor weighs in favor of local control.

For all the reasons stated above, I find that the store manager at the petitioned-for store is vested with significant autonomy over daily operations, especially with respect to personnel matters, notwithstanding the existence of centralized policies and procedures and the role played

by the district manager. Accordingly, this first factor weighs *against* the Employer overcoming the single-facility presumption.

2. *Similarity of Employee Skills, Functions, and Working Conditions*

The similarities or dissimilarities of work, qualifications, working conditions, wages and benefits between employees has some bearing on determining the appropriateness of the single-facility unit. However, this factor is less important than whether there is substantial interchange. See, *Dattco, Inc.*, 338 NLRB 49, 51 (2002) (“This level of interdependence and interchange is significant and, with the centralization of operations and uniformity of skills, functions and working conditions, is sufficient to rebut the presumptive appropriateness of the single-facility unit.” (emphasis added)). Accordingly, I find that this factor supports the Employer meeting its burden but conclude that the “uniform skills, functions and working conditions” across District 326 “are outweighed by other factors, most significantly the lack of significant interchange and the Store Managers’ local autonomy over personnel functions.” *Starbucks Corp. (Mesa I)*, 371 NLRB No. 71, slip op. at 2; see also *Starbucks Corp. (Seattle I)*, Board Order, 19-RC-287954 (March 22, 2022).

The record shows minimal differences in the basic skills and job functions associated with preparing and serving the Employer’s menu items at different stores, notwithstanding minor differences at each location. I acknowledge that these similarities and differences relate to all employees and stores in the United States, not merely those in District 326. Employee wages, pay structure, and benefits are established at the corporate level. The same work rules and policies apply to all U.S. stores, albeit with minor variation in their application at the store level. The Board has long held that while the standardization of centrally established benefits is of some significance, it should not overshadow other important factors where the uniformity is not greater than is characteristic of retail-chain-store operations generally. See *Haag Drug Co.*, 169 NLRB at 879.

District 326 stores may have a slightly different layouts and equipment. But the Board has recently found that differences do not constitute a meaningful difference in working conditions. *Starbucks Corp. (Mesa I)*, 371 NLRB No. 71, slip op. at 2. Following the Board’s rationale, I likewise conclude that whatever minor differences there may be between District 326 stores do not counterbalance the other similarities in wages and working conditions, and this second factor *supports* the Employer meeting its burden.

3. *Interchange*

Interchange refers to temporary work assignments or transfers between two groups of employees. Frequent interchange “may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills.” *Hilton Hotel Corporation*, 287 NLRB 359, 360 (1987). As a result, the Board has held that the frequency of employee interchange is a critical factor in determining whether employees who work in different groups share a community of interest sufficient to justify their inclusion in a single bargaining unit. *Executive Resource Associates*, 301 NLRB 400, 401 (1991) (citing *Spring City Knitting Co. v. NLRB*, 647 F.2d 1011, 1015 (9th Cir. 1081)). Lack of significant employee interchange between groups of employees is a “strong indicator” that employees enjoy a separate community of interest. *Id.* Also relevant for consideration with regard to interchangeability is whether there are permanent transfers among

employees in the unit sought by a union. However, the existence of permanent transfers is not as important as evidence of temporary interchange. *Hilton Hotel Corporation*, 287 NLRB at 359.

In *Starbucks Corp. (Mesa I)*, 371 NLRB No. 71, the Board addressed interchange between the location sought by petitioner and the other stores in the Employer's administrative district. The Board agreed with the Regional Director that the data provided by the Employer was "insufficient to rebut the presumption in favor of a single-store unit." *Id.* at 1. The Board recognized that statistics on interchange "must be assessed in the context of the relevant legal test, where the key question is the nature and degree of interchange and its significance in the context of collective bargaining." *Id.* In examining the data presented by the Employer purportedly showing that over 50 percent of the petitioned-for employees worked at two or more stores in the time period in question, the Board noted that the number did not reflect how often the petitioned-for employees worked at other locations or how often "borrowed" employees worked at the petitioned-for store. *Id.* The Board highlighted that, by contrast, petitioner had cited to data reflecting that during the recent fiscal year fewer than 2 percent of shifts at the petitioned-for store were worked by borrowed partners. The Board determined that "the available statistics do not establish that the petitioned-for employees regularly or frequently interchange with employees" in the district, "and instead indicate that any interchange is limited and infrequent." *Id.* The Board further noted that the record failed to establish frequent contact between the petitioned-for employees and employees from other stores within the same district. *Id.* The Board thus reasoned that "this limited evidence of interchange and contact also reflects that employees at [the petitioned-for store] can operate with relative independence" and that, as such, "the nature and degree of interchange does not favor rebutting the single-store presumption because it does not negate the separate community of interest the [petitioned-for] employees are presumed to share." *Id.*; see also *Starbucks Corp. (Seattle I)*, Board Order, 19-RC-287954, at 1 n.1 (March 22, 2022) (Board noted that "the statistics provided by the Employer here have the same shortcomings that we identified in *Starbucks Mesa*: they fail to establish regular interchange, and demonstrate instead that interchange between the petitioned-for employees and other employees in [the district at issue] is limited and infrequent"); *Starbucks Corp. (Knoxville)*, Board Order, 10-RC-288098, at 1 n.1 (March 23, 2022) (Board found that "even taking the Employer's data and expert testimony at face value, the evidence of interchange here is insufficient to rebut the single facility presumption").

Moreover, the kind of evidence that the Employer has proffered to demonstrate the mandatory nature of its employee interchange—including corporate-level materials—has also been considered and rejected in earlier cases.¹¹ In *Buffalo I*, the Employer's regional director testified that employees are expected "to be able to work in other stores across the market," not just their home stores, based on the Employer's "business needs." In *Mesa I*, the regional director testified that an employee's refusal to work as a borrowed partner could result in discipline. The Employer's director of operations services testified that employees are notified that they are expected to work as borrowed partners during the hiring-interview process. In light of all the surrounding evidence showing that working as a borrowed partner is voluntary, the Board and its Regional Directors have not found such testimony compelling.

¹¹ As in Part II.B.1, *supra*, the parties incorporated this evidence from earlier cases by reference.

Here, I also find that interchange does not favor the Employer meeting its burden. The record contains detailed evidence on the use of borrowed partners among stores in District 326. The Employer argues this evidence shows meaningful interchange, citing to data showing that during an approximate 34-month period, 72.8% of District 326 employees worked only in their home store, while 27.2% worked at more than one location within the district. In looking at the petitioned-for store, 47.8% of employees worked at their home store exclusively, while 52.2% of those employees worked at one or more other Employer stores. However, an employee need only work at least one shift as a borrowed partner to be reflected in these statistics. Thus, this data does not demonstrate the frequency with which employees work as borrowed partners at locations other than their home stores.

While this data reflects a measure of temporary interchange among the stores in District 326, the data also weighs against the Employer's arguments in two significant ways. First, the borrowed-partner data demonstrates a very low level of work performed through interchange as compared with the total work performed by home-store employees. The parties appear to agree that the percentage of borrowed shifts across District 326 during the relevant timeframe was around 1.7% of all shifts worked, and at the petitioned-for store, borrowed shifts made up only 0.72% of shifts worked in 2019, 2.3% in 2020, 1.52% in 2021, and 0.16% in 2022. These findings corroborate the testifying shift manager's observation that borrowed partners are relatively uncommon at the petitioned-for store. Second, the evidence strongly suggests that in District 326, interchange is voluntary. The Employer argues that employees are expected to work at others stores in the district, but it relies on the same corporate-level materials that the Board found unavailing in earlier *Starbucks* cases. And while Greco asserted that she could compel employees to work at stores other than their home stores, she did not provide evidence that she had ever done so, or that she had ever disciplined an employee for refusing such a request. Moreover, the shift supervisor's testimony regarding the store manager asking employees if they are willing to take open shifts at other stores suggests that the Employer broadly looks for volunteers to work as borrowed partners, rather than ordering particular employees to do so.

In sum, the Employer's data and the other evidence in the record shows that some employees work outside their home stores as borrowed partners. However, the work of borrowed partners is a small part of the *total shifts worked* at the petitioned-for store. Combined with the voluntary nature of this temporary interchange and other factual ambiguities in the record, I find this third factor does *not* weigh in favor of the Employer overcoming the single-facility presumption.

4. Distance Between Locations

The Board does not place great emphasis on geography, particularly where there is separate local supervision and in an absence of interchange. For instance, in *Avi Foodsystems, Inc.*, 328 NLRB 426 (1999), the Board found a single-facility unit of cafeteria workers appropriate, excluding employees who worked at a cafeteria about a mile away on the same campus, because of the substantial local autonomy exhibited by cafeteria managers and the lack of employee interchange. In *Gordon Mills, Inc.*, 145 NLRB 771 (1963), the Board approved an independent unit of employees at the employer's "Forest" plant, which was only 500 feet from its "Velvetone" plant, despite the fact that the employer in that case maintained a centralized general and personnel office and there was common oversight by a plant manager and assistant plant manager. The Board reasoned that the plants had separate lower-level supervision, without

significant employee interchange, and that the common use of services or facilities was not enough to destroy the separate identities of the plants. *Id.* at 773-74.

The 13 District 326 stores span eight separate localities. Six of the stores, including the petitioned-for store, are in Madison, and eight are within a 5-mile radius of the petitioned-for store. But the remaining five stores are approximately 9, 20, 40, 40, and 50 miles out from the Madison cluster to the north, east, and south. Overall, I find that this fourth factor weighs *slightly against* the Employer meeting its burden, as the District 326 stores are not clustered together close enough to overcome the single-facility presumption buttressed by the other factors.

5. Bargaining History

The absence of bargaining history is a neutral factor in the analysis of whether a single-facility unit is appropriate. *Trane*, 339 NLRB at 868 n.4. However, Board law establishes that the absence of bargaining history weighs in favor of the single-facility presumption where, as here, no union seeks to represent employees on a broader basis.¹² See *New Britain Transportation Co.*, 330 NLRB 397, 398 (1999). Accordingly, this factor weighs *slightly against* the Employer meeting its burden.

III. CONCLUSION AND FINDINGS

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.¹³
3. Petitioner is a labor organization which claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

¹² That is, no other labor organization is seeking to represent the petitioned-for unit at the district, area, regional, or national level. Rather, the Starbucks petitions have all sought to represent employees in discrete, single-facility units.

¹³ The parties stipulated to the following: "The Employer, Starbucks Corporation, a Washington corporation with headquarters located in Seattle, Washington, and facilities located throughout the United States, is engaged in the retail operation of restaurants, including [certain] . . . restaurants in Wisconsin, which the Employer refers to collectively as District 326. During the past 12 months, a representative period of time, the Employer derived gross revenues in excess of \$500,000 and purchased and received at its restaurants in the State of Wisconsin goods valued in excess of \$50,000 directly from points outside the State of Wisconsin."

Included: All full-time and regular part-time baristas and shift supervisors employed by the Employer at its facility located at 1 E. Main Street, Madison, Wisconsin, also known as Store 2425.

Excluded: Store Managers, office clerical employees, guards, professional employees, and supervisors as defined in the Act.

Others Permitted to Vote: At this time, no decision has been made regarding whether any employees classified as Assistant Store Managers are included in, or excluded from, the bargaining unit. Individuals in this classification may vote in the election but their ballots shall be challenged since their eligibility has not been determined. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.¹⁴

6. The parties stipulate that there is currently one assistant store manager at Store 2425, and four assistant store managers in total currently employed in District 326. The parties agree to vote the assistant store manager(s) subject to challenge in the event an election is directed.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Chicago & Midwest Regional Joint Board, Workers United/SEIU.

A. Election Details

I direct that the election be conducted by mail ballot, in accordance with the stipulation of the parties.

The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit by personnel of the National Labor Relations Board, Subregion 30, on **June 7, 2022, at 3:30 p.m.**¹⁵ Voters must sign the outside of the envelope in which the ballot is returned. **Any ballot received in an envelope that is not signed will be automatically void.**

If any eligible voter does not receive a mail ballot by **June 14, 2022**, or otherwise requires a duplicate mail ballot kit, he or she should contact the Regional office to arrange for another mail ballot kit to be sent to that employee.

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Subregion 30 office, by close of business, **4:30 p.m., on June 29, 2022.**

The mail ballots will be commingled and counted at the Subregion 30 office located at 310 West Wisconsin Avenue, 450W, in Milwaukee, Wisconsin at **2:00 p.m. on June 30, 2022.** The parties will be permitted to participate in the ballot count, which may be held by

¹⁴ The parties stipulated that Assistant Store Managers would vote subject to challenge.

¹⁵ Petitioner waived all ten days of the ten-day voter list period.

videoconference. If the ballot count is held by videoconference, a meeting invitation for the videoconference will be sent to the parties' representatives prior to the count. No party may make a video or audio recording or save any image of the ballot count.

B. Voting Eligibility

Those eligible to vote in the election are employees in the above unit who were employed during the payroll period ending **May 22, 2022**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail-ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are: 1) employees who have quit or been discharged for cause since the designated payroll period, and, in a mail-ballot election, before they mail in their ballots to the Board's designated office; 2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and, 3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters. The Employer must also include in a separate section of that list the same information for those individuals who will be permitted to vote subject to challenge.

To be timely filed and served, the list must be *received* by the regional director and the parties by **June 2, 2022**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

Pursuant to Section 102.5(c) of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site (www.nlr.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. A party filing a request for review must serve a

copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: May 31, 2022

/s/ Jennifer A. Hadsall

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Attachment